

The regular called meeting of the Zoning Board of Adjustment was held on June 7, 2006 in the Council Chambers at City Hall, 221 East Main Street. Board members in attendance were:

Chairman Keith A. Hickman

Vice Chairman Terry Hagood

Board Member Tim Haynie, Jr.

Board Member Michael Morales (Alternate)

Board Member Roy Beard (Alternate)

Staff included Tom Martin, Director of Transportation, Susan Brennan, Planning Coordinator, Nicole Crutchfield, Principal Planner, Charlie Crossfield, City Attorney, and Amy Swaim, Administrative Technician. With a quorum present, Chairman Hickman called the meeting to order at 5:35 p.m

### **3. Approval of the May 3, 2006 meeting minutes.**

**Motion:** Motion by Board Member Haynie, second by Vice Chairman Hagood to approve the May 3, 2006 minutes as presented.

**Vote:** AYE: Board Member Haynie, Board Member Beard, Board Member Morales, Vice Chairman Hagood, Chairman Hickman. NAY: None. Motion carried unanimously.

Mr. Crossfield explained the charge of the Board to the alternate members and provided a memorandum detailing findings of fact as laid out in the Zoning Ordinance.

**4.A. Consider public testimony regarding an application filed by LWR Family Partnership, owner, to request a variance pursuant to Section 11.308 of the Zoning Ordinance. The variance is to reduce the number of required parking spaces at**

**the drive-through from 10 to 8 and to change the point of measurement for the stacking spaces to be from the pick-up window only. The subject property is described as Lot 1, Stoneledge Section 2 Subdivision, also known as 1010 N. IH 35, in Williamson County, Texas, application no. 06-003-ZBA.**

Ms. Crutchfield indicated the subject building was originally built as a gas station but was converted to a drycleaners. She stated the building is now vacant, and the applicant has filed a site development permit to convert the building to a drive-through and walk-up coffee establishment, selling mostly beverages and pastries. During the site plan review process, two comments were identified: 1) A 40' throat depth is required for the driveway access located on Sam Bas Road; and 2) There is a 10 car stacking requirement for the drive-through restaurant. In order to address the review comment for the stacking space, the applicant filed a request to reduce the number of stacking spaces from 10 to 8. In addition, due to the nature of the business, the applicant requested to measure the stacking spaces from the point of window only.

Present on behalf of the applicant was Brent Baker, BWM Group. Mr. Baker stated they are trying to improve this lot by converting the drycleaners into a Starbuck's. He indicated they are bringing the lot, including landscaping and masonry, into compliance with the Chisholm Trail Overlay District standards.

Seeing no one else, Chairman Hickman closed the public hearing.

***4.B. Consider a motion regarding the application for a variance pursuant to the Zoning Ordinance, to reduce the number of required parking spaces at the drive-through from 10 to 8 and to change the point of measurement for the stacking spaces to be from the pick-up window only. The subject property is described as Lot 1, Stoneledge Section 2 Subdivision, also known as 1010 N. IH 35, in Williamson County, Texas, application no. 06-003-ZBA.***

Board Member Morales asked for clarification regarding the location of the order board in relation to the pick-up window.

Mr. Baker noted the location of the order board as "car 5" and the pick-up window as "car 1".

Vice Chairman asked if it is possible to move the order board up in order to satisfy the stacking issue and eliminate the need for that particular variance.

Mr. Baker stated they would be willing to move the order board.

Vice Chairman asked for clarification regarding the intent of the 40' throat depth.

Mr. Martin explained the intent of the 40' throat depth is to keep traffic on the site from interfering with traffic on Sam Bass Road. He stated it allows traffic to clear into the site without causing congestion on Sam Bass Road.

Vice Chairman Hagood stated of all the conflicts he could come up with in terms of traffic, stacking of cars trying to get into the site was one thing, but exiting the site by trying to turn left onto Sam Bass seemed to be of most concern to him. Vice Chairman Hagood asked if making the driveway "one way in" would eliminate or improve the need for the 40' throat depth.

Mr. Martin stated the drive-cut off of Sam Bass already acts as more of a "right-in" than a "right-in/right-out". He indicated he would still like to maintain the 40' throat depth because of the fact that it is "the next car" (the person deciding to wait on Sam Bass to turn into the site) that will block the turn lane onto the frontage road and back up traffic on Sam Bass Road. Mr. Martin stated that is why it is less important to him to have the 10<sup>th</sup> car in line than to have the 40' throat depth.

Board Member Beard asked if a traffic study had been done for the area as it relates to the proposed use.

Mr. Martin stated a traffic study has not been done on this particular proposal; however, the turnover rates generally associated with these types of restaurants would be a maximum of 5 to 6 cars waiting in line because of the fact that they are turning the product over fast enough to keep the cars moving.

Board Member Beard asked what, if any, legal liability the City faces if the Board grants this variance and it turns out that doing so creates a substantial traffic problem.

Mr. Crossfield indicated once the variance is granted, it cannot be reversed. He explained even if the variance is granted, it does not permit them to back up traffic into the street; therefore, the City could file a Class C Misdemeanor against Starbuck's if they are allowing this to happen. Mr. Crossfield also stated it is difficult to sue a city for taking this type of action.

Board Member Morales asked if there would be inside seating at this location.

Bryan Morrow, Architect, stated there will not be inside seating. He indicated there will be a 550 square-foot patio outside with 3 tables.

Board Member asked where employees would park.

Mr. Morrow stated he understands there will be 2 employees on-site.

Ms. Brennan pointed out that they have exceeded the City's requirements for parking spaces for this type of use.

Vice Chairman Hagood asked what the approximate time is from order to pick-up.

Mr. Baker stated Starbuck's has indicated a 2 to 3 minute wait from order to pick-up. He indicated there is another Starbuck's location a few blocks away from this site, and the intent of the proposed site is to cater to mainly drive-through customers. Mr. Baker pointed out there is actually room for an 11<sup>th</sup> car before they even hit the 40' throat depth.

Board Member Haynie asked if there are statistics related to peak hour traffic for these types of businesses.

Mr. Baker stated he does not have exact numbers, but he would assume early morning would generate the most traffic.

Vice Chairman Hagood asked if the City has the right take action if the variance is granted and in 12 months from now it is determined that it is a public safety issue.

Mr. Crossfield stated it would be very difficult. He indicated they would have to file an injunction to withdraw the variance.

Vice Chairman Hagood asked if there are any TXDOT improvements planned at this intersection and if TXDOT review was required for this site.

Mr. Martin stated the City plans to widen Sam Bass Road, but it will not affect this proposal. He indicated the City issues driveway permits for TXDOT, and the proposed use is less intense than what was there before.

Board Member Morales asked for clarification regarding landscaping.

Mr. Baker stated in regard to landscaping, this site is currently non-compliant, and their proposal will bring the site up to compliance and then some. He indicated they are reducing the impervious cover by 4500 square-feet to increase the landscape area on-site.

Chairman Hickman asked if there are still underground storage tanks left from the gas station.

Mr. Baker stated he believes they were removed, but he is not sure.

Vice Chairman Hagood indicated in regard to the issue of the 6 spaces and the 4 spaces, the applicant said they would move the order board. He asked if that is a motion or condition that would need to be made, therefore only granting a variance to the 6.

Ms. Crutchfield indicated it should state something to the effect of reducing the number of required stacking spaces as measured from the order board from 6 to 4 for a total of 8 spaces.

**Motion:** Motion by Vice Chairman Hagood to approve the variance request, amending it to read as follows: reduce the number of spaces from 6 to 4 from the order board with the condition that order board be moved from car 5 to car 4.

**Motion died for lack of a second.**

**Motion:** Motion by Board Member Beard, second by Board Member Haynie to deny the request due to the following findings of fact: The granting of the variance would be detrimental to the public health, safety and welfare.

**Vote:** AYE: Board Member Beard, Board Member Haynie, Board Member Morales. NAY: Vice Chairman Hagood, Chairman Hickman. The vote was 3-2. The motion to deny carried.

**5. ADJOURN**

There being no further business, Chairman Hickman adjourned the meeting at 6:16 p.m.

Respectfully Submitted,

Amy L. Swaim

Administrative Technician